

Exhibit 6

Exhibit 6

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BOBBIE R. WILLIAMS
CLERKBY  DEPUTY

JUL 19 2021

KIRK N. WALKER, ESQ.
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400 South 4th Street, Suite 500
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Attorneys for Defendant
ATHENA MEDICAL GROUP, INC.

IN THE NINTH JUDICIAL DISTRICT COURT OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

LEVERTY & ASSOCIATES LAW CHTD.,

Plaintiff,

CASE NO: 2021-CV-00057
DEPT. NO: II

vs.

ATHENA MEDICAL GROUP,
INC.'S MOTION TO SET ASIDE
DEFAULT AND VACATE
DEFAULT JUDGMENT

Hearing Requested

ATHENA MEDICAL GROUP DEFINED CONTRIBUTION PENSION PLAN AND TRUST NUMBER THREE; ATHENA MEDICAL GROUP, INC. E.R.I.S.A. RETIREMENT TRUST; ATHENA MEDICAL GROUP INC., a Nevada corporation aka ATHENA MEDICAL GROUP CORP., a Nevada non filing entity; ATHENA MEDICAL GROUP, INC. DEFINED BENEFIT PENSION PLAN AND TRUST CHTD.; THE ESTATE OF RAY W. EXLEY; INGRID VAN VUERINGS individually and as a corporate officer of ATHENA MEDICAL GROUP and as Trustee of the ATHENA MEDICAL GROUP INC. DEFINED PENSION PLAN AND TRUST NUMBER THREE; INGRID VAN VUERINGS as Trustee for ATHENA MEDICAL GROUP INC. DEFINED BENEFIT PENSION PLAN AND TRUST, CHTD.; JULIANA MAYER LOZA as a corporate officer of ATHENA MEDICAL GROUP, INC., and as Trustee of the ATHENA MEDICAL GROUP DEFINED PENSION PLAN AND TRUST NUMBER THREE; JULIANA MAYER LOZA as Special Administrator and Personal Representative of RAY EXLEY ESTATE; RAY W. EXLEY M.D. NEVADA FAMILY TRUST; JULIANA MAYER LOZA; ATHENA MEDICAL GROUP, INC. DEFINED CONTRIBUTION PLAN NUMBER TWO; JULIANA MAYER LOZA as Trustee of ATHENA MEDICAL GROUP, INC. DEFINED

NEVADA WALKER, PLLC
400 S. 4TH ST. STE. 500
LAS VEGAS, NV 89101



1 CONTRIBUTION PLAN NUMBER TWO; DOES
2 I through XXX; ABC CORPORATIONS A-M; and
N-Z Limited Liability Partnerships,

3 Defendants.

4
5 **ATHENA MEDICAL GROUP, INC.'S MOTION TO SET ASIDE DEFAULT AND**
6 **VACATE DEFAULT JUDGMENT**


7 COME NOW, Defendant ATHENA MEDICAL GROUP, INC. ("Athena") administrator of
8 A ATHENA MEDICAL GROUP, INC. administrator of: ATHENA MEDICAL GROUP DEFINED
9 CONTRIBUTION PENSION PLAN AND TRUST NUMBER THREE; ATHENA MEDICAL
10 GROUP, INC. E.R.I.S.A. RETIREMENT TRUST; ATHENA MEDICAL GROUP, INC. DEFINED
11 BENEFIT PENSION PLAN AND TRUST CHTD.; ATHENA MEDICAL GROUP, INC. DEFINED
12 CONTRIBUTION PLAN NUMBER TWO; and ATHENA MEDICAL GROUP INC. DEFINED
13 PENSION PLAN AND TRUST NUMBER THREE.. by and through its counsel of record, KIRK
14 N. WALKER, ESQ. of the law firm NEVADA WALKER, PLLC. and hereby files this Motion to to
Set Aside Default and Vacate Default Judgment as follows.

15 This Motion is made and based upon the papers and pleadings on file herein, the Points and
16 Authorities submitted herewith, the affidavit and exhibits attached hereto and the oral argument of
17 counsel at the time set for the hearing in this matter.

18 Dated this 15th day of July, 2021.

19 NEVADA WALKER, PLLC

20 By:

21 
KIRK N. WALKER, ESQ.
22 Nevada Bar No. 11315
400 S. 4th Street, Suite 500
23 Las Vegas, NV 89101

24 Attorneys for Defendants
ATHENA MEDICAL GROUP, INC.
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POINTS AND AUTHORITES

I. INTRODUCTION

Plaintiff obtained a default and default judgment against Athena by serving the incorrect resident agent listed with the Nevada Secretary of State. When the same was discovered and the existence of the matter was found then counsel for Athena requested the default be set aside on May 27, 2021. After notifying counsel of representation, default judgment was still sought and obtained without notice to Athena's counsel.

Time has passed and Plaintiff will not stipulate to setting aside the default and default judgment resulting in the need for filing this Motion. The Court should make rulings on the merits of the case and Athena is requesting relief within six months of the default and default judgment being entered against it. Therefore, Athena requests the default against Athena and against any of the plans Athena administers be set aside and that the default judgment(s) be vacated and removed.

II. STATEMENT OF FACTS

Athena Medical Group, Inc. (was formed on November 13, 2012 as entity number E0589312012-5 with registered agent of Juliana Loza address 195 Hwy 50, Suite 104, Stateline Nevada USA. Exhibit A. It further lists officer Information and addresses of the officers as 112 North Curry Street, Carson City NV 89703.

Plaintiff filed its Complaint on March 23, 2021. Plaintiff made no service on the address of Athena or attempted the same. Instead, Plaintiff served Athena Medical Group, Inc., a non-filing domestic entity with no Nevada business id number and which does not exist, at 990 Ironwood Dr. Ste. 300, Minden, NV 89423, which is not Athena. Exhibit B. The Entity Number of the Athena which was served in support of this default judgment was E0656532019-5, listed on SilverFlume as a "Non-filing domestic Entity". That "entity" has No Officers, No Business ID, and was established 7/29/2019, more than a year and a half after all significant allegations of fraudulent title transfers contained therein the instant case had occurred. Simply put, the 2019 Athena is not the Defendant in this above captioned case.

Despite this, Plaintiff moved forward with the default and default judgment against Athena. Plaintiff obtained a default and default judgment against Athena Medical Group, Inc., only by serving parties at addresses not recorded on the SilverFlume website and not to the actual Defendant entity

1 established on 11/13/2012. Although Plaintiff's verified service was to an **Athena Medical Group,**
2 **Inc.,** it was not the **Athena Medical Group** who is this Defendant.

3 Upon learning of the service of this lawsuit, Counsel for Athena reached out to Plaintiff's
4 counsel in good faith and requested the defaults be set aside on May 27, 2021. Exhibit C. Despite
5 knowing that Athena was represented by counsel, Plaintiffs filed their application for default judgment
6 against Athena on June 7, 2021, which resulted in default judgment against Athena on June 8, 2021.
7 Plaintiff never sent the Application or any related documents to Athena's counsel. After multiple
8 correspondence, Plaintiff still refuses to stipulate to set aside the default and judgment, which results
9 in this Motion.

10 Another alleged service of process was to Ms. Ingrid van Vuerings, Corporate Secretary. Here
11 again Plaintiff did not serve the official address listed with SilverFlume, being 112 North Curry Street,
12 Carson City NV 89703. Ms. van Vuerings was NOT contacted or any attempted service at the Carson
13 City address but according to the Plaintiff's Affidavit of service was allegedly serviced at 9504
14 Highridge Pl., Beverly Hills, CA 90210. This address is listed nowhere in any official registry for
15 Athena or Ms. van Vuerings in her official capacity who does not now, nor has ever lived at the
16 Beverly Hills address and certainly was not physically present on March 31, 2021. Exhibit D.

17 Service upon Ms. Juliana Loza was also alleged at the same 9504 Highridge Pl., Beverly Hills,
18 CA 90210 address. This too is not an official address, but most important the Affidavit of Service
19 states effective service was performed "by leaving the copies with or in the presence of JULIANA
20 LOZA". Highridge Place is a gated compound with only an interphone which is connected through
21 the internet. Ms. Loza was not at the address which is not her "official residence". Most important is
22 that on the date in question, Ms. Loza who is also Mrs. Ray Exley; recently widowed, was out of town
23 from March 29- until April 2, 2021. She was in inconsolable morning over her recently deceased
24 husband whose birthday is April 1. Exhibit D.

25 This Court should set aside the default against Athena and vacate the default judgment against
26 it and allow Athena to defend the allegations on the merits.

27 // //

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III. LEGAL ARGUMENT

A. Default against Athena should be set aside and Default Judgment vacated

Nevada Rule of civil procedure Rule 55 c) allows a default to be set aside, "for good cause shown the court may set aside an entry of default and, if a judgment by default has been entered may likewise set it aside in accordance with Rule 60." "[t] [is] the policy of the law that cases should be disposed of in this court on their merits whenever possible" *Hotels El Rancho v. Pray*, 64 Nev. 22, 26 176 P.2d 236, 238 (Nev. 1947); *Hotel last Frontier v. Frontier Prop.*, 79 Nev. 150, 380 P.2d. 293 (1963).

The phrase "good Cause Shown" as used in Rule 55(c) is "broad in scope" and encompasses the mistake, inadvertence, excusable neglect, fraud, etc. Referred to in Rule 60(b), but also "may be broader than the standard which must be met pursuant to NRCP 60(b) to vacate a default judgment." *Sealed Unit Part Co. v. Alpha Gramma of Chapter of Gamma Phi Beta Sorority*, 99 Nev. 641, 642, 688 P.2d 288, 289, 1983 Nev. LEXIS 495, *2; *Intermountain Lumber & Builder Supply v. Glen Falls Ins. Co.*, 83 Nev. 126, 129, 424, P.2d 884, 886, 1967 Nev. LEXIS 240, *4.

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party; (4) the judgment is void; or, (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that an injunction should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 6 months after the proceeding was taken or the date that written notice of entry of the judgment or order was served. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

Nev. R. Civ. Pro. § 60(b)

Additionally, the Court has given guidelines to which should be considered by the court in determining whether or not to set aside a default judgment: (1) "moving party must show some excuse

1 for its failure to answer or otherwise defend; (2) showing that a meritorious defense exists to the claim
 2 of relief; and (3) recognition of basic underlying policy that cases should be decided on their merits."
 3 *Sealed Units Parts Co.*, 99 Nev. T 642, 668 P.2d at 289; *Tahoe Village Realty v. DeSmet*, 95 Nev.
 4 131,590 P.2d 1158 (1979); *Lentz v. Boles*, 84Nev. 197,438 P.2d 254 (1968); *Hotel Last Frontier*, 79
 5 Nev. At 153-156.

6 In the present case, Athena was not properly served at its resident agent's address or made
 7 aware of this litigation before obtaining default. Plaintiff served a different entity in error and did not
 8 serve Ingrid at the address stated. After knowing that Athena was represented by counsel, Plaintiff
 9 pursued default judgment against Athena and did not notice its counsel. Default judgment was entered
 10 less than six months ago and cases should be tried on their merits. Consequently, Athena requests that
 11 the default filed by Plaintiff against it be set aside and the default judgment be vacated.

12 **B. Service must be made upon Athena's attorney**

13 "Rule 5(b) Service: How Made. (1) Serving an Attorney. If a party is represented by an
 14 attorney, service under this rule must be made on the attorney unless the court orders service on the
 15 party." Nevada Rules of Civil Procedure §5(b). Counsel for Athena notified Plaintiffs of the
 16 representation and Plaintiff still filed its papers to obtain a default judgment without any notice to
 17 counsel. Regardless of whether the Service of Process was valid or not or whether Defendant Counsel
 18 had made an appearance in the instant case, Plaintiff had an obligation to have communication with
 19 counsel under NRCP §Rule 5(b). Therefore, the default should be set aside and default judgment
 20 vacated so that the parties may litigate the merits of the case.

21 **IV. CONCLUSION**

22 Athena respectfully requests that the Default be set aside against it in this matter, that the
 23 Default Judgment be vacated. The undersigned hereby affirms that the preceding document does not
 24
 25

26 // //

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28 // //

1 contain the social security number of any person.

2 Dated this 15th day of July, 2021.

3 NEVADA WALKER, PLLC

4 By:


KIRK NEVADA WALKER, ESQ.
Nevada Bar No. 11315
400 S. 4th Street, Suite 500
Las Vegas, NV 89101

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7 Attorneys for Defendant
8 ATHENA MEDICAL GROUP, INC.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of July, 2021, I filed and served a true and correct copy of the foregoing, ATHENA MEDICAL GROUP, INC.'S MOTION TO SET ASIDE DEFAULT AND VACATE DEFAULT JUDGMENT, by electronic mail transmission only, and by serving the same on the persons listed below via U.S. regular mailing:

Vernon E. Leverty, Esq.
William R. Ginn, Esq.
LEVERTY & ASSOCIATES LAW CHTD.
832 Willow St.
Reno, NV 89502

By:


An Employee of Nevada Walker, PLLC

EXHIBIT A

ENTITY INFORMATION

ENTITY INFORMATION

Entity Name:

ATHENA MEDICAL GROUP, INC.

Entity Number:

E0589312012-5

Entity Type:

Domestic Corporation (78)

Entity Status:

Active

Formation Date:

11/13/2012

NV Business ID:

NV20121687001

Termination Date:

Perpetual

Annual Report Due Date:

11/30/2021

REGISTERED AGENT INFORMATION

Name of Individual or Legal Entity:

JULIANA LOZA

Status:

Active

CRA Agent Entity Type:**Registered Agent Type:**

Non-Commercial Registered Agent

NV Business ID:**Office or Position:****Jurisdiction:****Street Address:**

195 HIGHWAY 50 SUITE 104, STATELINE, NV, 89449, USA

Mailing Address:**Individual with Authority to Act:****Fictitious Website or Domain Name:****OFFICER INFORMATION**☐ **VIEW HISTORICAL DATA**

Title	Name	Address	Last Updated	Status
President	JULIANA LOZA	112 North Curry Street, Carson City, NV, 89703, USA	11/10/2020	Active
Secretary	INGRID VAN VUERINGS	112 North Curry Street, Carson City, NV, 89703, USA	11/10/2020	Active
Treasurer	INGRID VAN VUERINGS	112 North Curry Street, Carson City, NV, 89703, USA	11/10/2020	Active
Director	ABIU AILLAUD	112 North Curry Street, Carson City, NV, 89703, USA	11/10/2020	Active
Director	CHARLES E EXLEY	112 North Curry Street, Carson City, NV, 89703, USA	11/10/2020	Active

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Go to Page

CURRENT SHARES

Class/Series	Type	Share Number	Value
	Authorized	25	25.00000000000000

Page 1 of 1, records 1 to 1 of 1

Number of No Par Value Shares:

0

Total Authorized Capital:

625

[Filing History](#)

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EXHIBIT B

IN THE NINTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF DOUGLAS

Leverly & Associates Law Child,
Plaintiff,

VS

CASE NO. 2021-cv-00957

Athena Medical Group Defined Contribution
Pension Plan and Trust Number Three, et al.,
Defendant(s).

DECLARATION OF SERVICE

Keith James Miligan, being duly sworn says: That at all times herein Affiant was and is a citizen of the United States, over 18 years of age, and not a party to nor interested in the proceedings in which this Affidavit is made.

That Affiant received copies of the SUMMONS, COMPLAINT, On 4/8/2021 and served the same on 4/8/2021 at 3:37 PM by delivery and handing a copy with:

Tricia, Process Specialist pursuant to NRS 14-023 as a person of suitable age and discretion, of the office of Minden Lawyers, P.C., registered agent for Athena Medical Group Inc., a Nevada corporation aka Athena Medical Group Corp., a Nevada non filing entity at the registered address of:

990 Ironwood Drive 500, Minden, NV 89423-5159

A description of Tricia is as follows

Gender	Color of Skin/Race	Hair	Age	Height	Weight
Female	Caucasian	Brown	51-55	5'7" - 6'0"	201-220 Lbs

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

Affiant does hereby affirm under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

STATE OF NEVADA


COUNTY OF Lyon

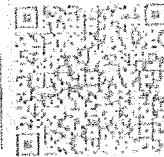
Executed on: 4/12/2021

by Keith James Miligan

Registration #A-2016-01535

No notary is required per NRS 53.045.

X 
Keith James Miligan
Registration #A-2016-01535
Reno Carson Messenger Service, Inc. #322
185 Martin St.
Reno, NV 89500
(775) 322-2424
www.renocarsch.com



Order# R116960 NVPRF411

EXHIBIT C

From: [Kirk Walker](#)
To: [gene@levertlaw.com](#); [pat@levertlaw.com](#); Bill Ginn
Subject: Leverty & Assoc. Law Chtd. v. Athena Medical Group Defined Contribution Pension Plan and Trust Number Three;
Case: 2021-cv-00057
Date: Thursday, May 27, 2021 8:23:00 AM
Attachments: [image001.png](#)
[image002.jpg](#)
[image003.jpg](#)
[image004.jpg](#)

Good morning,

Our office has been retained by the Athena Medical Group and its related entities in this matter. While we believe there were some issues with service, we would like to appear and understand that one or several defaults have been entered already. Can you please forward us any defaults that have been entered and let us know if you are willing to set aside certain defaults as well?

Thank you for your anticipated response. Have a good day!

Kirk N. Walker
Attorney at Law

kirk@nevadawalker.com
Tel: (702) 793-4125
Licensed in CO, DC, NV, OR, TX & WA

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EXHIBIT D

DECLARATION OF JULIANA LOZA

I, JULIANA LOZA, hereby declare as follows:

1. I am an adult and over the age of eighteen (18) years old and I am of sound mind. I am the defendant in the above-captioned action. I have personal knowledge of the matters set forth herein, which I know to be true and correct. If called upon to testify, I could and would competently do so.

2. I am familiar with 9504 Highridge Place, Beverly Hills, California ("property").

3. The property is a compound with no access to persons inside from the property street line as shown in photographs I recently made from the CCTV camera system. (Exhibit 1).

4. Through the CCTV system I can view any of about 20 cameras, speak and hear over certain camera speakers and access the gate two-way interphone and remotely open the secure gate. Contact with persons at the gate is always through interphone connected with the CCTV system and remotely accessible through the internet. Speaking over the interphone is not proof the party is present at the property as through the internet I or whomever can be anywhere the internet has a connection.

5. I have read the Affidavits submitted by Mr. Levery and can state under oath and without equivocation that on or about those dates, no person entered the property, had personal contact nor received any documents "in person" or accepted substitute service for any documents.

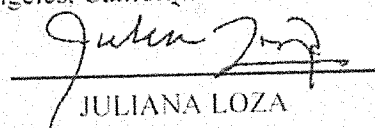
6. My husband, Dr. Ray Exley passed away in June 2020 and as his birthday is April 1 was not at the property between March 29 and April 2, 2021, but in deep morning, visiting and spending time in places we shared or where I could be alone.

7. The statement by the process server that he was "with or in the presence of JULIANA LOZA" or anyone who is member of my household and "I informed him or her of the general nature of the papers" as stated in the Affidavit are all false and fabricated.

8. Ingrid van Vuerings is not now nor ever has been a resident of the above address and since January 1, 2021 has not stayed at said address, and due to the complexity of the gate or interphone, I am generally the only person who answers, but as stated above, that can be from anywhere.

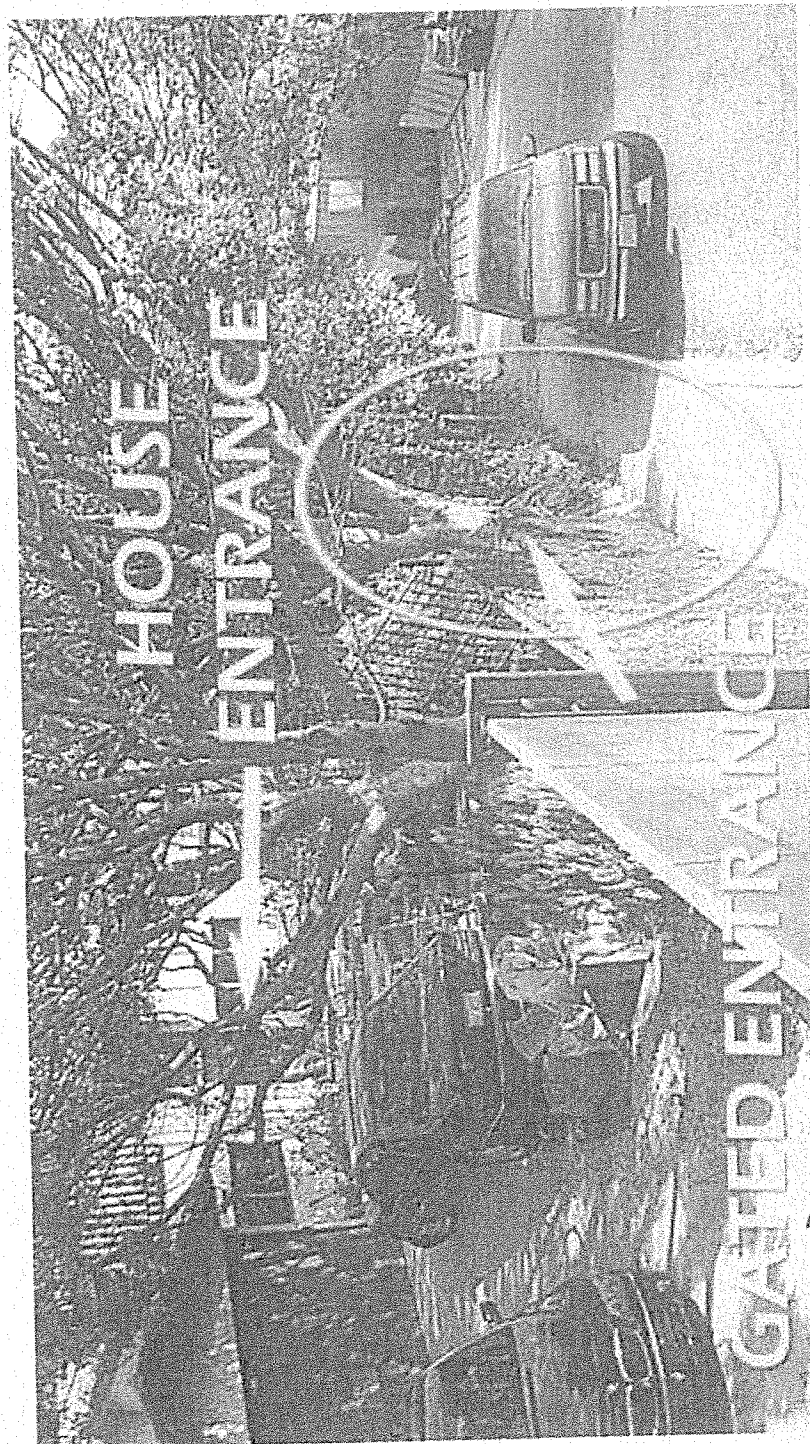
I declare under penalty of perjury under the laws of the State of California and State of Nevada that the foregoing is true and correct.

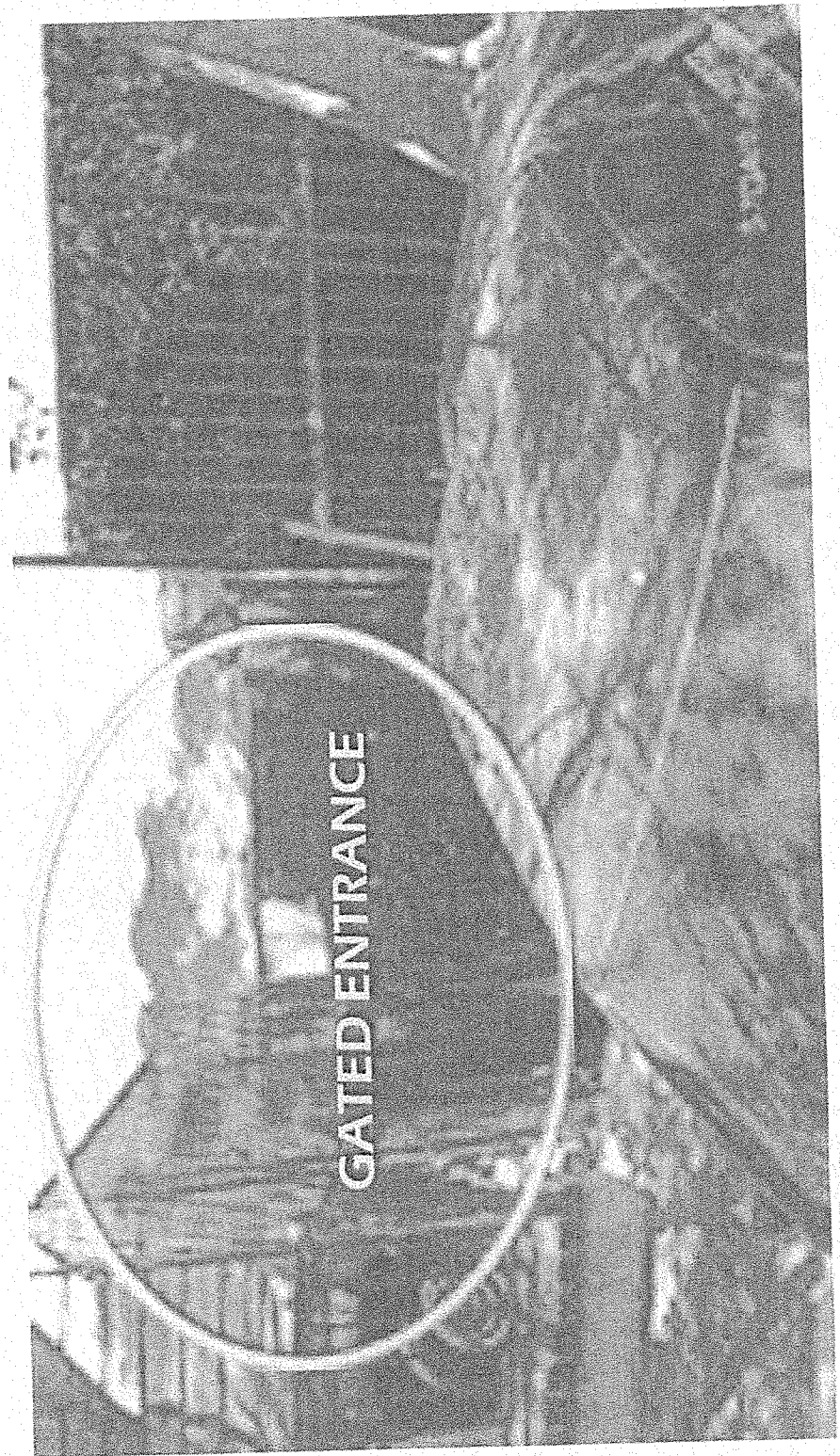
Executed on July 9, 2021 in the County of Los Angeles, California.


JULIANA LOZA

Decl. of Juliana Loza
re Service of Process
Case No. 2021-cv-0057

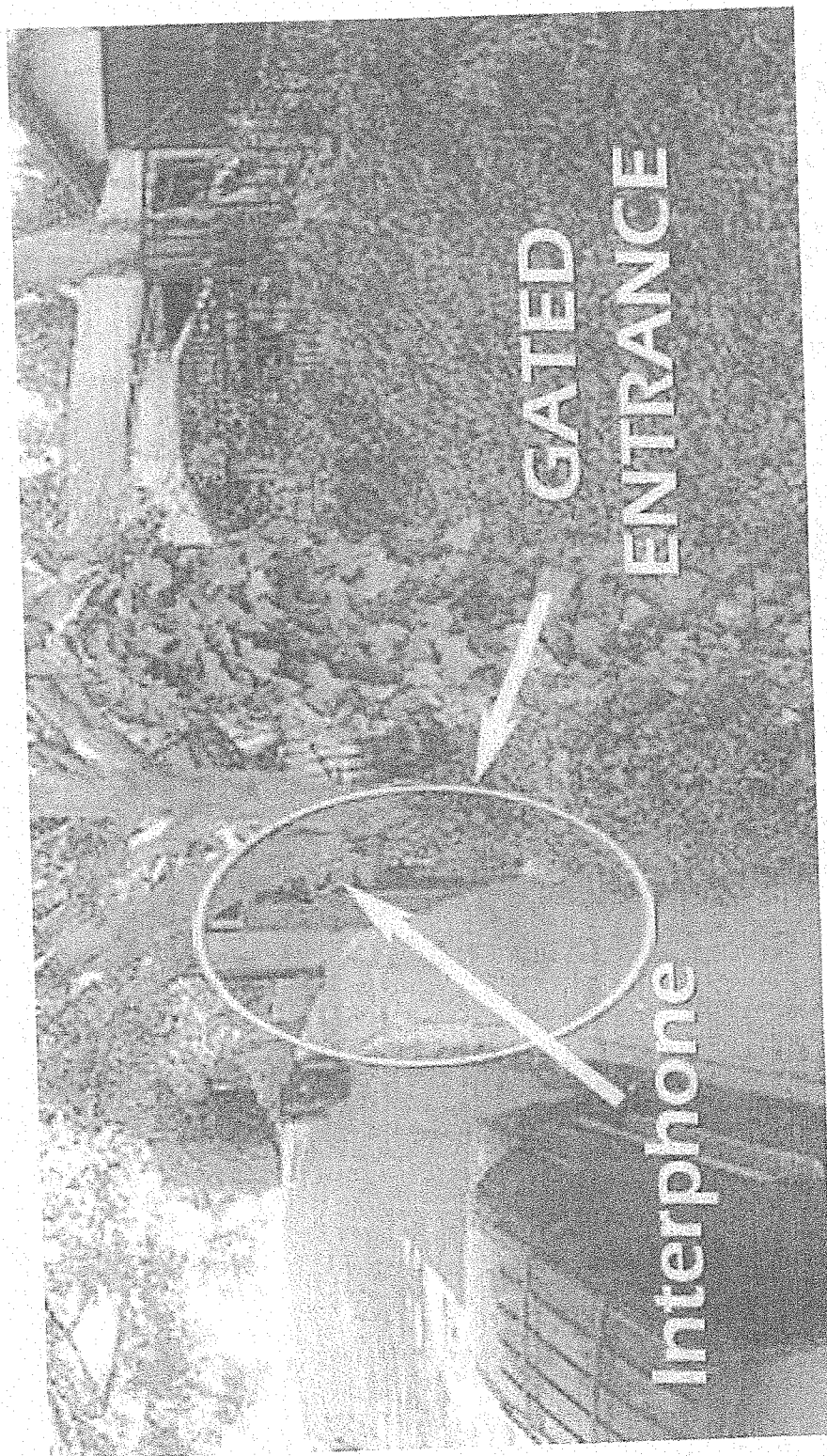
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Decl. of Juliana Loza
re Service of Process
Case No. 2021-cv-0057